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Employment Resources & Solutions



Joint Wage Liability Costing California Companies

by Lisa Pierson, President, Kimco Staffing Services

Have you checked the financial health and stability of your current staffing agency lately? If not, we suggest you do it right now.

In February of this year, a staffing company that conducts the majority of its business in California filed for bankruptcy after one of its companies failed to pay nearly \$100 million in federal payroll taxes and another \$575,000 to the California Employment Development Department. To compound the problem, the staffing company was unable to make payroll for at least one of its clients.

Under AB-1897—the new law that states that employers who use staffing companies are liable for a staffing company’s failure to pay all required wages or to secure workers’ compensation insurance—the staffing company’s clients (of which there are nearly 300) are responsible for any violations, even if they made payments in good faith to the staffing company.



We recently came to the aid of one of the affected clients when the client discovered that the staffing agency would not be able to make payroll for its temporary employees. Fortunately, we were able to quickly and successfully transition the existing temporary workforce over to our payroll system, ensuring proper payment of wages, state and federal payroll taxes, and workers’ compensation without interruption to workforce production.

It’s important to note that clients cannot claim ignorance to the law as there is no consideration for whether or not the client had knowledge about the violations and the law applies whether or not the client and staffing company are joint employers.

In addition, the statute provides that any waiver is contrary to public policy and is unenforceable.

The State of California insists that it is ultimately the client’s responsibility to properly vet their staffing agencies. Companies must be cautious when securing the services of a staffing company and limit the risk through careful due diligence. So how do you protect your business from non-compliant staffing agencies? Start by asking your agency for a documented AB-1897 compliance strategy and proof of compliance with a third-party audit at scheduled intervals throughout the year. We also recommend that you review audited financial statements to ensure fiduciary responsibility and request proof that temporary employees are reference-checked and E-Verified through Homeland Security to ensure a workforce that is compliant with USCIS regulations. If your agency is unable to provide satisfactory answers to these requests, it’s probably time to start looking for a new staffing partner.

It’s of utmost importance that you work with an agency that complies with all relevant labor laws and understands the legal, and moral, obligations of ensuring that employees are properly compensated and insured. Your staffing partner should not only provide you with superior service and personnel, but should also protect you from legal liability.

Lisa Pierson

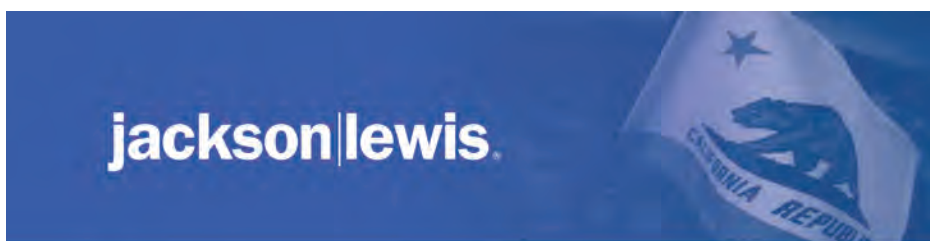
Lisa Pierson is the president of Kimco Staffing Services. She oversees service delivery, sales and operations. She can be reached at lperson@kimco.com or 949.752.6996.



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Costs and Employee Productivity Remain Top Priority for Benefits Programs

by Ben Alvarado, Executive Vice President and President, Wells Fargo Southern California Community Bank

Benefit plans are one of the top ways to increase employee loyalty and engagement according to a recent study by Wells Fargo Insurance.

According to the Employee Benefits Trends Survey conducted by Wells Fargo Insurance, part of Wells Fargo & Co., benefit plans can greatly improve employee loyalty and companies focus largely on maintaining employee productivity and controlling costs when designing its benefit programs. The survey shows that C-suite executives and benefit managers cite managing costs and maintaining employee productivity as the most important goals in both the short (12-18 months) and long term (five years). Additionally, C-suite executives (88 percent) and benefit managers (85 percent) agree that benefit programs have the most impact on improving employee loyalty as well as increasing employee engagement and lowering company medical costs.

Wells Fargo Insurance designed the *Employee Benefits Trends Survey* to better understand how companies are responding to healthcare reform requirements while also providing their employees with competitive benefits programs. Surveying C-suite executives and benefit managers from companies across the U.S. with more than 50 employees, the survey generated 950 responses and covered topics including cost containment strategies, employee attraction and retention, outlook on healthcare reform, and financial impact of employee health.



“As unemployment continues to decline, we will be competing for the most talented. It’s a balancing act for many companies as they look to maximize employee productivity, retention and morale while also controlling costs,” said Alvarado. “Staying on top of ensuring that positions at your company are desirable should be a constant consideration.”

With 2015 underway, most companies have made key changes to their benefits plans. According to the survey, seven in 10 companies have made or are in the process of implementing changes for covering spouses as well as to increase the percentage that employees must contribute to premiums. Six in 10 have also changed or are in the process of changing options for the type of plan offered. While most employers have not yet made changes such as moving from fully-insured to self-funded or using private exchanges, the survey found that those decisions and offering a high deductible plan are the top initiatives now under consideration.

As companies look ahead, they remain focused on managing costs, wellness offerings and family coverage. With wellness leading the list, C-suite executives and benefit managers will focus on coverage of family members, employee attraction and retention during the next five years.

“We keep our employees well-informed in all aspects of where we are headed as a company, and offer incentives for them to continue to be part of our

company. Benefits are the number one issue when it comes to employment with our company,” noted a survey respondent.

The focus on wellness is very strong with 93 percent of C-suite executives surveyed anticipating an increase or improvement in the importance of wellness offerings. Half of the companies that have considered or are considering a change in wellness offerings said they are doing so as a result of the Affordable Care Act. Finally, 55 percent of employers will have implemented incentives and/or penalties in 2015 for wellness compliance.

“Wellness programs are going to achieve a mutually beneficial experience and help retain and attract employees that will help companies achieve growth and cost savings,” added Alvarado.

For more information and additional findings from Wells Fargo Insurance’s Employee Benefits Trend Survey, visit <https://wfis.wellsfargo.com/services/employeebenefits/Pages/Research.aspx>.

About Wells Fargo Insurance

Wells Fargo’s Employee Benefits National Practice helps customers with financial underwriting and insurance, health and productivity risk management, benefits communication and administration, and compliance with healthcare reform.

Wells Fargo Insurance provides solutions for a wide range of customers, including retail consumers, high net worth individuals, small businesses, as well as middle market and large corporate customers. Wells Fargo Insurance writes or places \$10 billion of risk premiums annually in property, casualty, benefits, international, personal lines, and life products and also includes the nation’s largest crop insurance provider, Rural Community Insurance Services (RCIS). For more information on Wells Fargo Insurance visit www.wellsfargo.com/wfis.

Ben Alvarado

Ben Alvarado is executive vice president and president of Wells Fargo’s Southern California Community Bank. He oversees approximately 3,800 financial professionals at 234 banking stores and manages more than \$34.1 billion in deposits and \$11.3 billion in loans.

A 24-year banking veteran, he assumed his current role in December of 2014. Prior to being named president for the Southern California Region, he ran the Orange County-Inland Community Bank. He also has served in various positions at the company, including retail bank district manager for the Pasadena and South Bay markets; commercial loan officer; sales development coach; banking store manager; personal banking officer, and bank teller. As one of the top ranking executives in the bank, he also sits on the Management Committee, which provides oversight on operations, practices and to lines of business.

Alvarado earned his bachelor’s degree at California State University, Long Beach, and an MBA from Pepperdine University. Alvarado is active in the community and serves on the board of directors for Orange County United Way; the advisory board for Miller Children’s & Women’s Hospital Long Beach; Memorial Medical Center Foundation; the board of directors for Bundles of Books in Los Alamitos; the alumni board for La Salle High School in Pasadena and is the current president of Wells Fargo’s Latin Connection team member networking group.

Alvarado resides in Rossmoor with his wife and two children.



About Wells Fargo & Company

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conduct business in the global economy. With approximately 265,000 team members, Wells Fargo serves one in three households in the United States. Wells Fargo & Company was ranked No. 29 on Fortune’s 2014 rankings of America’s largest corporations. Wells Fargo’s vision is to satisfy all our customers’ financial needs and help them succeed financially. Wells Fargo perspectives are also available at Wells Fargo Blogs and Wells Fargo Stories.



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Social Media - The New Recruiting Tool

by Ann Nguyen and Jordan Salviati

As technology continues to evolve, it is crucial for talent acquisition and HR managers to understand the need to hire Gen Y professionals, also known as the “digital generation” or Millennials in order to support changing times. According to O.R., CEO of a data analytics startup company, “Targeting Millennials has helped us acquire the right skills as these candidates can adapt to emerging technology and media trends.”

As the working population begins to mature, Millennials will make up the majority of the workforce by 2020. For this reason, recruiting strategies based on social media outlets are crucial in attaining Millennials. Facebook and Twitter used to be seen as platforms for entertainment and connection, but today it has become a prominent employment tool for this generation. Due to this emerging trend, organizations are moving towards creating specific job positions such as “Social Media Coordinator/Administrator” whose responsibilities revolve around managing social media traffic, trends and platforms. These positions will allow employers to creatively promote their brand within this generation of new professionals.

Ultimately, it is also important to note that as companies review their succession planning program, they must take into account the emergence of Gen Z, a demographic that is much more technology savvy and focused on meaningful work. As this population slowly enters the workplace, organizations need to be mindful and connect with this new generation to support their needs for career value, innovation and cutting-edge ideas!

Headquartered in Orange County since 1989, Marquee Staffing recruiters acknowledge the need to constantly adapt to changing times. According to Tom Porter, CEO, Marquee Staffing, “Social media gives us the opportunity to tap into a large, sometimes passive talent pool that is not always attainable through traditional recruiting methods.” Marquee Staffing uses Facebook to drive awareness, Twitter to connect with clients and candidates, LinkedIn for exciting job postings and blogs for current industry related events. As a result, we work with numerous progressive clients and build strong partnerships based on understanding their staffing needs. We believe that “in order to win the game, you have to know your players!”

For more information about Marquee Staffing and our services, please visit www.marqueestaffing.com.



Shift to Outsourcing HR an Unconventional Fit for One OC CEO

Let's face it, most CEOs are focused on revenues, not human resources (HR) agendas. With an ever increasing tide of legislation and burdens on businesses such as the Affordable Care Act (ACA), new paid-time off (PTO) rules, a 2013 survey by the Society of Human Resources Management (SHRM) found that over 58 percent of companies outsource their HR functions.

Clive was not one of them.

As the CEO of Orange-County-based ARIA Group, a leading automotive research and design group, Clive's success has been a direct result of one thing-to turn automotive dreams into reality. But as his business grew, so did the volume of employer responsibilities. Without qualified staff or the budget to hire a full-time HR manager, he considered an unconventional solution.

“That's when made a strategic decision to outsource our human resources,” remembers Hawkins, who guest lectures on engineering and entrepreneurship at Harvard Design School and Pepperdine. During their selection process, he recalls the key drivers in finding the perfect fit:

Experience counts.

Realizing that he didn't know what he didn't know, the automotive engineer placed a high priority on experience. Yet after building this company over the past 20 years, he wasn't about to hand over one of his most trusted business functions to just anyone. Choosing a professional firm with a proven track record in human resources and safety quickly became the target.

High-touch, dedicated and local.

Transitioning from an internal resource to outsourcing presented a challenge. Concerned with the human connection their staff became accustomed to, executives were worried about a lack of intimacy and relationship. To maintain the hands-on culture at ARIA required a dedicated advisor that the team could laugh with, connect with, and consider one of their own.

Resourceful and Cost-effective

The team selected Irvine-based EmplicityHR for its wide range of resources and team of experts. “This decision and the results have been an excellent solution for Aria for the past five years,” remarks Hawkins who continues to drive his company and team to the pinnacle of modern automotive design.

For further information, contact Victor Tanon at EmplicityHR at 949.933.6661 or ocbj@emplicity.com.



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Art & Creativity for the Workplace

by Michelle Moreno, PMP - Operations Manager, Zumasy

Art & Creativity for Healing has a more than 20-year relationship providing creative team building workshops for management and employees. These corporate workshops are highly interactive, creative-centered sessions, which specialize in team building and stress management. This past year, Zumasy staff members have had an opportunity to experience these workshops firsthand. Our Sales Team was first with 15 members going over to the Art & Creativity for Healing studio in Laguna Hills. Initially, there was a bit of trepidation, but within 20 minutes of the two-hour workshop, all were extremely engaged in the colorful abstract painting exercises. Our Founder/CEO Paul Giobbi said, “It surprised me how interactive and innovative this Art4Healing process was—anyone can do it without needing to be an artist. I learned some new things about my staff due to this process. I was so impressed with the first workshop that I sent our Operations Team over as well. They too had a powerful, engaging team-building experience.”



As Operations Manager, I can attest to the positive experience the Art4Healing workshop had for all 12 members of my Operations Team. They commented on how enjoyable putting dabs of acrylic paints on canvas were to represent personal reflections of company experiences. One of my team members wrote this within days of taking the workshop: “Art4Healing was a great team building experience. Hard to explain how great the experience was. My co-workers and I all bonded over our different levels of creativity and all got to know each other a little better by explaining our pieces. ACFH put together an amazing class for us. I highly recommend this to any company looking for team building events. Or for people who maybe need a new way to understand their feelings and emotions. It was a great day!”

Art & Creativity for Healing is a nonprofit public benefit corporation in existence for 15 years in Orange County. It has been my privilege to serve as a member of the board of directors for the past two years.

For more information, please contact us at www.art4healing.org or 949.367.1902.

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Employers Beware: Navigating Legal Landmines in the Battle Over Immigration

by James L. Morris, Partner, and Peter Hering, Associate, Rutan & Tucker

On February 17, 2015, a Texas federal judge issued a preliminary injunction against President Obama's executive immigration program granting temporary legal status to millions of undocumented immigrants. The Obama administration has appealed this ruling. Congress, meanwhile, is brawling bitterly over the program's funding.

While the battle rages at the federal level, the California legislature continues to pass laws affecting undocumented workers. Three recently-enacted laws in particular will have a significant impact on California employers.

We briefly discuss California's new laws and then examine two challenging scenarios California employers may well face.

New Laws: Strengthening Protections for Undocumented Workers

A common thread runs through the new laws: they are designed to protect immigrant workers.

1. Don't Discriminate Against Holders of California's New Driver's License

Under a law passed in 2013 (AB60), the DMV has begun issuing driver's licenses to drivers who are ineligible for a social security card and cannot prove their lawful presence in the United States ("AB60 Licenses"). Many who apply for this license are undocumented immigrants.

As of January 1, 2015, California employers are prohibited from discriminating against any job applicant or employee who presents an AB60 License to the employer. Employers are also prohibited from asking for a driver's license unless a license is a legal job requirement or a legitimate employer requirement.

2. Don't Take Adverse Action Against Employees for Changing Their Name, Social Security Number, or Employment Authorization Documents

The California legislature also amended a one-year old provision of the Labor Code, Section 1024.6, which prohibits taking any adverse employment action against an employee who "updates or attempts to update his or her personal information." Until the 2014 amendment, the statute did not define "personal information," thus creating uncertainty.

Section 1024.6 now protects employees who update or attempt to update their personal information "based on a lawful change of name, social security number, or federal employment authorization document."

This change makes clear the intention of the statute: to protect undocumented workers who come forward and disclose their real identities.

3. Broadened Definition of Unfair Immigration-Related Practices

Finally, the legislature broadened the definition of "unfair immigration-related practices" under Labor Code §1019. Section 1019 prohibits retaliation, through the use of such practices, against employees for exercising any rights under the Labor Code or local ordinances. The following actions are now prohibited:

- ▶ Requesting more or different documentation than required under federal law (8 U.S.C. §1324a(b));
- ▶ Using E-Verify at a time or in a manner not required by Section 1324a(b), or authorized by the E-Verify memorandum of understanding (the "E-Verify MOU");
- ▶ Threatening to file or filing a false police report or false report or complaint with any state or federal agency;
- ▶ Threatening to contact or contacting immigration authorities.

Two Likely Scenarios and Their Risks for Employers

Employers now find themselves between a rock and a hard place. On one hand, federal law makes it illegal to hire workers who the employer knows, or has reason to know, lack legal authorization. On the other hand, California law prohibits taking adverse action against workers who, by their actions, put the employer on notice about past or present problems with their employment authorization.

Scenario 1: An Existing Employee Approaches You to Update Her Social Security Number

An employee approaches you and asks to change her social security number. Since a person can have only one social security number, the employee effectively has just told you she has been using a false social security number. Because this dishonesty violates your corporate honesty policy, can you now terminate the employee?

The new California answer is "no." The employee is apparently exercising her right under Section 1024.6 to change her social security number. So, what *should* you do?

First, you must update the employee's I-9 information. The I-9 Handbook provides guidance on what to do in this situation: (1) ask the employee to complete a new Form I-9; (2) attach the new Form I-9 to the previous Form I-9; (3) in the employer section of the new Form I-9, list the original hire date; and (4) attach a written explanation documenting the change.

Second, if you use E-Verify, you must carefully consider whether to run the updated information through E-Verify. As explained above, using E-Verify when it is not required by federal law or authorized by the E-Verify MOU is considered an unfair immigration-related practice.

A close look at the relevant statute and the E-Verify MOU should caution against using E-Verify to check the updated information. Here's why:

- ▶ Section 1324a(b) does not require the use of E-Verify in this context.
- ▶ The E-Verify MOU authorizes using E-Verify to verify employment eligibility only within 3 days of a new hire. Further, it prohibits E-Verify use unless specifically authorized by the E-Verify MOU or User Manual.
- ▶ The E-Verify User Manual specifically prohibits the use of E-Verify to re-verify the employment authorization of an existing employee.

Seems clear enough so far, right? The I-9 Handbook, however, complicates your decision. It recommends that you "should verify the new Form I-9 information through E-Verify" when an employee has presented a new identity (e.g., new social security number).

Given this contradictory guidance, the choice whether to use E-Verify exposes you to potential liability either way. On the federal level, USCIS might take the position expressed in its I-9 Handbook and find that you failed properly to verify an employee's work authorization by not using E-Verify. On the state level, you could face liability for engaging in unfair immigration-related practices by using E-Verify.

Scenario 2: A New Employee Presents California's New AB60 License During the I-9 Process

A job applicant has presented two documents during the I-9 process: (1) an AB60 license to prove identity; and (2) a facially valid document establishing employment authorization (e.g., a social security card). Being familiar with the AB60 license, you know that to get this license, the job applicant had to certify *ineligibility* for a social security number and *inability* to prove lawful presence. Given this irreconcilable contradiction between the two documents, you reasonably suspect the applicant is not actually authorized to work. What should you do?

As explained above, you cannot discriminate against the applicant simply because he presented an AB60 license. Further, asking for additional documents could be considered an unfair immigration-related practice under Labor Code §1019.

Yet, if it turns out the applicant indeed was not authorized to work, you apparently would have hired an unauthorized worker when you were (quite logically) on notice about the employee's lack of work authorization, thus violating federal law.

In this situation, using E-Verify provides a distinct advantage, because you can satisfy your obligations by simply verifying the applicant's identity through the system. If E-Verify raises no red flags, you can feel reasonably comfortable in hiring the applicant. (Note, however, that E-Verify cannot be expected to detect a fully-stolen identity!) If you do not use E-Verify, the better part of discretion – however grating – may be to accept the documents the applicant presented, especially if the work authorization document appears valid.

Conclusion: Difficult Choices

The legal and policy tensions inherent in California and federal immigration-related laws make it hard to quantify an employer's exact risks. Changes in the political climate in future years could always alter the calculus further. At a minimum, employers should follow a consistent approach, to avoid the appearance of singling out any employee.

Federal immigration law violations include potential exposure to criminal charges, although such charges usually extend only to the "worst of the worst" offenders. At the state level, a draconian sanction has gone largely unnoticed: Potential suspension of an employer's business licenses! That sanction, of course, effectively would put an employer out of business (at least temporarily), and would put all employees' pay – and employment – at risk.

You should carefully review California's new immigration-related employment laws and how they may impact your business. To minimize your risks, consider doing two things: (1) train your human resources employees on how to handle these situations; and (2) identify whom to call when you face a unique situation.

James L. Morris

Jim is the Chair of the Employment and Labor Section of Rutan & Tucker, where he represents employers in a wide variety of litigation and non-litigation matters. He has been selected repeatedly for inclusion in the prestigious publication *Best Lawyers in America* in labor and employment categories. He has also been chosen for many years as a Southern California "Super Lawyer" for employment and labor law. In July 2014, he was selected as one of California's top 75 labor & employment lawyers by the *Daily Journal* legal newspaper. Jim can be reached at 714.641.3483 or jmorris@rutan.com.



Peter Hering

Peter is an associate in the firm's Employment and Labor Section, where he handles a variety of employment-related litigation and non-litigation matters, including wage and hour, employment discrimination, harassment, and wrongful discharge claims. Peter can be reached at 714.338.1804 or phering@rutan.com.





California Mandates Anti-Bullying Training

by Cynthia S. Sandoval, Shareholder, Jackson Lewis

In what may be a signal of future amendments to California's Fair Employment and Housing Act (FEHA), effective January 1, 2015, employers subject to California's mandatory supervisory sexual harassment training must now address the prevention of "abusive conduct" in their programs. Employers with at least 50 employees anywhere are required to provide two hours of classroom or other effective, interactive training regarding sexual harassment prevention to California supervisors every two years. New supervisors must be initially trained within six months of promotion or hire.

Under the new amendment, abusive conduct—which must be addressed in supervisory training— is defined as conduct:

"[w]ith malice, that a reasonable person would find hostile, offensive and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse; such as the use of derogatory remarks, insults and epithets; verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating; or the gratuitous sabotage or undermining of a person's work performance. A single action shall not constitute abusive conduct, unless especially severe and egregious."

Significantly, this broad definition does not require conduct based on a FEHA protected category. California employers must reexamine their training initiatives to remain compliant— particularly in light of decisions over the past decade, in which courts have closely examined training programs when evaluating liability, available defenses and punitive damages. This wave of scrutiny began with the seminal ruling in *Kolstad v. American Dental Ass'n*, 527 U.S. 526 (1999), where the Court recognized remedial purposes underlying federal law are "advanced where employers are encouraged...to educate their personnel on Title VII's prohibitions."

Companies who do not develop robust training programs run the risk of limiting available legal arguments if litigation ensues. This exposure is magnified in California where employers face potential strict liability for unlawful supervisory conduct or may be penalized for failure to comply with the training requirements.

Cynthia S. Sandoval

Cynthia S. Sandoval is a shareholder in the Orange County office of Jackson Lewis, an AmLaw 100 firm dedicated to representing management exclusively in workplace law. Contact Cynthia Sandoval at sandovac@jacksonlewis.com or 949.885.1360.



Is a Family Office the Solution to Your Financial Woes?

by Susan Levinstein, CPA, Partner, HMWC CPAs & Business Advisors

Affluent individuals may find that the demands of work, family and other responsibilities can leave little time to manage their day-to-day financial affairs. A "Family Office" is an organization that assumes the day-to-day administration and management of a family's affairs. The capabilities provided by a Family Office can include a wide range of functions, such as recordkeeping services, expense management, bill paying, bookkeeping services, tax compliance work, access to private banking and private trust services, document management, family member financial education, family support services, risk management, philanthropic planning and family governance.



Of course, true expertise in such a wide range of functions is not commonly found under one roof, as well as the fact that there can be regulatory issues for a single firm to legally provide this spectrum of services. As such, a Family Office firm typically provides a core group of services and works with the client to select a team of professional advisors to handle the remaining needs. The Family Office firm can sometimes perform centralized management and oversight of those services.

How We Can Help

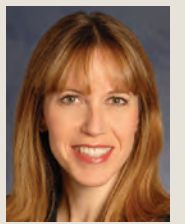
At HMWC CPAs & Business Advisors, our *Complete Financial Office Solutions* group provides Family Office services to wealthy families and individuals. These clients recognize that our CPA firm is well-equipped to handle accounting and financial matters, while offering unbiased insights and expertise in working with investment managers, attorneys, insurance agents and other service providers. Clients value our expertise in rendering the following services:

- ▶ Cash flow and budget management
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- ▶ Bank reconciliations
- ▶ Personal financial statement preparation
- ▶ Tax return compliance for family members, trusts and estates
- ▶ Household employee payroll
- ▶ Interactions with professional advisory team

Since these activities can be very time consuming, and complicated, for families with a wide range of assets, clients value our expertise in simplifying the process for them. This allows clients to spend their time on the things that matter most to them, minimizing mundane financial issues. HMWC's *Complete Financial Office Solutions* group is a cost-effective alternative for clients who desire exceptional service, objective guidance and integrity. Contact us to learn more about our Family Office services.

Susan Levinstein

Susan Levinstein, CPA, is a partner with HMWC CPAs & Business Advisors (www.hmwccpa.com) in Tustin. She heads the firm's Complete Financial Office Solutions department. Susan can be contacted at 714.505.9000.



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Health and Wellness in the Workplace

One of California's leading health systems and one of Southern California's largest employers, MemorialCare Health System promotes employee wellness to reduce the risk for lifestyle-related chronic conditions such as diabetes and hypertension. "One of the best places to transform health care is in the workplace," says Tammie Brailsford, RN, Executive Vice President and Chief Operating Officer. "That's where most people spend the majority of their waking hours. So, that's where we began our employee wellness journey. Seven years ago MemorialCare implemented an award winning prevention and wellness program, known as The Good Life, for its 11,500 employees."

Fork, Feet and Fingers

There are three key areas to focus on in order to improve health. Dr. David Katz, Director of Yale University Prevention Research Center stresses that what we do with our fork, our feet and our fingers determines what we do to our future health. To that end, MemorialCare has created a work environment that supports healthy food choices, creates opportunities to keep active and is smoke-free. With fitness challenges, onsite gyms and walking trails, nutritious cafeteria offerings, weight loss reduction programs and more, over 77 % of MemorialCare's employees report that their organization makes an effort to help improve their health. In a recent renovation of MemorialCare's 15-acre, 300,000 square foot property in Fountain Valley, the health system included walking workstations and sit-stand desks to help keep employees active.

Knowledge is power, so MemorialCare also offers employees annual opportunities to learn important biometric numbers like blood pressure, blood glucose and cholesterol, as well as confidential personal health assessments. Using a personalized, confidential online portal, employees can access health resources including a personal scorecard, exercise and nutrition planners, wellness coaching, wellness challenges and more.

Success in Managing Chronic Conditions

Chronic diseases like hypertension, diabetes, asthma and depression are responsible for more than 75% of health care costs, so addressing these conditions can help lower health care expenses.

MemorialCare partners with employees who have chronic conditions like high blood pressure, diabetes and hyperlipidemia to make long-lasting lifestyle changes, lessen complications, improve outcomes and lower medical and pharmaceutical costs through an innovative program, The Good Life – In Balance. With 87% participant retention, the In Balance program has led to clinically significant improvements in participants' blood glucose and blood pressure levels. These include a 0.9 average reduction in participants HgA1c in year one and an additional 0.4 reduction in year two. Participants experienced an average reduction of 20/13 in blood pressure in year one, and an additional 16/5 average reduction in year two.

Linking Benefits to Behavior

As a partner in health to more than 18,000 employees and dependents, MemorialCare designs health care benefits that are financially sustainable for families and for the organization. Employees are able to qualify for lower cost Good Life Medical Insurance plans by completing a confidential personal health assessment and biometric screening, and participating in wellness related activities or self care. Since its launch in 2013, more than half of MemorialCare's employees have taken the steps needed to qualify for these plans.

Managing Employer-Sponsored Health Care Spending

"Wellness solutions can improve employee health and well-being, increase employee engagement and decrease absenteeism," according to Brailsford. "And MemorialCare's commitment to employee health and wellness has resulted in significant reductions in its health care spending rate, dramatically below the national average." A recent nationwide survey conducted by Mercer revealed the national average increase in the employer-sponsored health care spending rate was 8.5% over the past 5 years. MemorialCare's annual increase was 4.9%. Normalized for one year when the health system, a self-insured employer, experienced several outlier cases, the system's average rate increase over the 5 years was 3.5%, just above annual CPI. A combination of The Good Life health and wellness initiatives linked to benefit design and strong rate negotiations led to the results.

For more information on how MemorialCare partners with employers or for a copy of a white paper on The Good Life, call (714) 377-2960.



MemorialCare Health System is a nonprofit integrated delivery system that includes: Long Beach Memorial, Miller Children's & Women's Hospital Long Beach, Community Hospital Long Beach, Orange Coast Memorial, Saddleback Memorial in Laguna Hills, Saddleback Memorial in San Clemente; MemorialCare Medical Group and Greater Newport Physicians; MemorialCare Imaging Centers, MemorialCare Surgery Centers and numerous other outpatient locations. memorialcare.org

Raiders of the Lost HR Files

by Kathi Guiney SPHR, GPHR - President of YES!HRSolution

Ah, the newness of springtime! It's the season to purge and scrub everything until it shines—and at work, it's important to spring-clean your HR office before Indiana Jones comes looking for lost treasure. Great timing if you've got a pile of "artifacts" left over from 2014!

Here are five ways to jump-start your office excavation:

► **Update medical benefit rates.** Ready to swap out 2014's rates, but can't remember all the places they need to be changed? Check your new-hire packets, the company's internet and intranet sites, and any online or print advertising that features the old benefit rates.

► **Review the employee handbook.** Check for compliance and prepare for new laws, such as California's paid sick leave law coming on July 1, 2015. If the handbook was last revised more than a year ago, it is now a vestige of HR-past; dig deep for any policies that violate labor laws, are too vague, or that conflict with actual operational practices.

► **Audit employee HR files.** Boxes of historical HR files can earn your office an exhibit at the Museum of Antiquities. Keep curators at bay by storing terminated employees' files in the warehouse or a document storage facility. Next, ensure active files are stored alphabetically and that no documents are misfiled. Replace any tattered file folders.

► **Examine your I-9s.** Are you compliant with the new form and document requirements? An I-9 form must be stored for three years after an employee's hire date, or one year after an employee's termination date, whichever is later. Remove the forms of terminated employees and label with a retention date. Purge any forms past their retention date.

► **Ensure correct classification.** Check that all positions are classified correctly as exempt versus non-exempt, and employees versus independent contractors. These are hot-button issues in California. A lawsuit would make for an unhappy Spring Fling!

If your office contains more relics than relevancies, some old-fashioned spring cleaning can help you dig your way out of 2014, and find the X that marks the spot for a fantastic 2015!



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It's H-1B Visa Cap Season!

by Mitch Wexler, Partner, Fragomen Worldwide

This is the fun time of year for business immigration lawyers and companies that employ foreign nationals with critical skills. It is like April 15 for accountants. In a nutshell, there are only 65,000 new H-1B visas available each fiscal year. There are an additional 20,000 for foreign nationals with advanced U.S. degrees. The Federal government fiscal year begins on October 1. U.S. employers can file H-1B petitions on behalf of identified foreign national candidates six months early, ie April 1. Last year, there were approximately 172,000 H-1B petitions filed during the first week of April. USCIS receipts all H-1B filings during the first week of April, and in the likely event demand exceeds supply, a random lottery is conducted. The lucky "winners" can apply for their H-1B visa stamps at the nearest U.S. Consulate abroad, or if in the U.S., will assume H-1B status as of October 1. It is anticipated that this year's receipt will far exceed last year's.



Not all H-1B petitions are subject to the cap. H-1B extension petitions with the same employer or new H-1B petitions for a current H-1B visa holder to work for another employer are NOT subject to the annual cap. The most common population of foreign nationals who are subject to the annual cap are foreign students who have recently graduated with university degrees. They are typically issued a one-year work permit as part of their student visa status. If employers want to secure their services beyond that one year period of time, a cap subject H-1B visa petition needs to be filed.

Another common "cap subject" class of applicant are those foreign nationals in the U.S. pursuant to another type of work visa with their current employer and where only an H-1B is an option for a new employer. For example, some work visas are nationality driven and some are only for multi-national companies transferring key people from affiliates abroad. To then seek employment with another U.S. company, often times, the H-1B is the only option.

Mitch Wexler

Mitch Wexler is a partner with Fragomen Worldwide, the world's leading immigration law firm. He manages the firm's Irvine and Los Angeles offices and is a member of the firm's national Executive Committee. Mitch is also a California State Bar Certified Specialist in immigration and has been practicing immigration law for 30 years. He can be reached at mwexler@fragomen.com.



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